

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

AFFYMETRIX, INC., a Delaware  
corporation,

Plaintiff,

v.

ILLUMINA, INC., a Delaware corporation,

Defendant.

Civil Action No. 04-901-JJF

**STIPULATED ORDER TO AMEND THE RULE 16 SCHEDULING ORDER**

WHEREIN, counsel for Affymetrix, Inc. and Illumina, Inc. have conferred and have agreed that good cause exists to amend the Rule 16 Scheduling Order as set forth below;

WHEREIN, the parties seek to amend the Rule 16 Scheduling Order as set forth below not for purpose of delay, but to allow the parties adequate time to complete expert discovery and prepare for trial in view of the Court's August 16, 2006 Order setting forth terms and phrases of the patents-in-suit;

IT IS HEREBY STIPULATED AND AGREED, subject to the approval and order of the Court, that the Rule 16 Scheduling Order in this action be modified as follows:

**8. Experts.**

(a) Reports from experts (whether retained or employees of a party) are due on issues on which a party bears the burden of proof by **September 15, 2006**; rebuttal expert reports are due by **October 20, 2006**.

(b) Any party desiring to depose an expert witness shall notice and complete said deposition no later than **November 17, 2006**, unless otherwise agreed in writing by the parties or ordered by the Court.

12. **Pretrial Conference.** At a time to be scheduled at the Court's convenience, a Pretrial Conference will be held during the **week of December 11, 2006**, in Courtroom No. 4B on the 4<sup>th</sup> Floor, Boggs Federal Building, Wilmington, Delaware. The Federal Rules of Civil Procedure and Rule 16.4 of the Local Rules of Civil Practice for the United States District Court for the District of Delaware (Amended Effective January 1, 1995) shall govern the pretrial conference.

13. **Trial.** At a time to be scheduled at the Court's convenience, Trial will commence on a date **on or soon after January 29, 2007**, in Courtroom No. 4B on the 4<sup>th</sup> Floor, United States Courthouse, Boggs Federal Building, Wilmington, Delaware.

The Rule 16 Scheduling Order shall be otherwise unaffected, and shall remain in full force and effect.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

MORRIS, JAMES, HITCHENS &  
WILLIAMS LLP

*/s/ Maryellen Noreika (#3208)*

*/s/ Richard K. Herrmann (#405)*

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SO ORDERED this \_\_\_\_\_ day of September, 2006.

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United States District Court Judge